

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MYLAN LABORATORIES, INC.,  
MYLAN PHARMACEUTICALS, INC.,  
UDL LABORATORIES, INC.,

Plaintiff,

v.

// CIVIL ACTION NO. 1:07CV95  
(Judge Keeley)

ELIOT G. DISNER, ELIOT G. DISNER,  
a Professional Corporation,  
JOHN/JANE DOE, Defendants 1-10,

Defendants.

ORDER DISMISSING ELIOT G. DISNER AS A DEFENDANT AND  
DIRECTING PARTIES TO SUBMIT STATUS REPORT

Pursuant to an Order entered on April 22, 2008, this case has been stayed pending the resolution of American Arbitration Association Arbitration No. 55 194 Y 0022507 and all appeals and other proceedings relating thereto. On April 8, 2009, counsel for the defendants, Eliot G. Disner ("Disner"), and Eliot G. Disner, a Professional Corporation, filed a "Suggestion of Death," notifying the Court that Mr. Disner had passed away on April 4, 2009.

Under Rule 25(a) of the Federal Rules of Civil Procedure, either party had ninety (90) days from the notice of death to file a motion for substitution. If no motion is filed within that time frame, "the action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a).

MYLAN V. DISNER

1:07CV95

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In this case, more than ninety days have elapsed, and no motion for substitution has been filed. Consequently, the Court **DISMISSES** Eliot G. Disner, in his individual capacity, from the case.

In addition, the Court **DIRECTS** the parties to submit a joint status report on 1) the status of the pending arbitration, as well as 2) whether the action will continue against Eliot G. Disner, a Professional Corporation, in light of Disner's death, by **Monday, September 21, 2009**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record.

DATED: August 17, 2009

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE